

**Adjourned (4-5:00 p.m.)* and Regular Minutes of Meetings of the
City Council/Redevelopment Agency
City of Huntington Beach**

Monday, November 3, 2003
*4:00-P.M. - Room B-8 – Public Comments,
Study Session/Closed Session Items
Approx 5:00 P.M. – Room B-8 - Study
Session/Closed Session Items
7:00 P.M. - Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

An audiotape of the 4:00 p.m. portion of this meeting
and a videotape of the 7:00 p.m. portion of this meeting
are on file in the Office of the City Clerk.

Call to Order

Mayor Boardman called the adjourned regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 4:00 p.m. in Room B8.

City Council/Redevelopment Agency Meeting Roll Call

Present: Coerper, Green, Boardman, Cook (Sullivan arrived at 4:01 p.m., Hardy arrived at 4:02 p.m., Houchen arrived at 4:05 p.m.)
Absent: None

Public Comments

Joey Racano presented reasons why Council should not approve the proposed Poseidon Desalination Project due to problems he believes exists at the desalination plant in the State of Florida and the Clean Water Act as it pertains to the AES Plant. Mr. Racano stated that the city needs a major water conservation program.

Chuck Scheid requested that the subject matter of closed session items be described to better inform the public. He stated that a well-written example is Closed Session Item Number 6 on this agenda.

Randy Fuhrman requested that Council not separate AES from Poseidon Desalination Project as was done at the Planning Commission meeting.

Eileen Murphy, Bolsa Chica Land Trust representative, spoke in opposition to the proposed Poseidon Desalination Plant.

Larry Porter urged Council to disapprove the proposed Poseidon Desalination Project. He presented three handouts – (1) a letter from the Coastal Commission, (2) E-Mail of 11/1/2003 titled *“Poseidon Study Session at 4 PM not 5 PM”*, and (3) E-Mail of 11/1/2003 titled *“Clarification of HB Planning Commission Poseidon CUP Vote”*. Mr. Porter spoke regarding the intake pipes and the subject of discharge.

Dean Albright referred to a document from the Metropolitan Water District as it pertains to salt water.

Tanveer Rao stated that the proposed Poseidon Desalination Plant will benefit the community.

Allan Beek inquired that if the Poseidon Desalination Plant Project is so beneficial why isn't it done more often. He stated his belief that unless it can be shown that it will not be an undue benefit to developers, that the project should be denied.

The City Clerk Announced a Late Communication

Pursuant to the Brown (Open Meetings) Act, the City Clerk announced a Late Communication regarding agenda items that had been received by her office following distribution of the agenda packet:

Communication from Bob Polkow dated November 1, 2003 titled *Agenda Item No. 8 (Closed Session 3 Nov. 2003)* presenting recommendations.

(City Council/Redevelopment Agency) Study Session Held – Presentation Made by the Planning Department and Poseidon Representatives Regarding an Overview of the Poseidon Seawater Desalination Project Environmental Impact Report (EIR) No. 00-02 and Conceptual Plans - Conditional Use Permit (CUP) No. 02-04/Coastal Development Permit (CDP) No. 02-05 for AES Power Plant Located at 21730 Newland Street - Developer and Staff to Report Back to Council (520.70)

Late Communications were distributed by Larry Porter during the public comments portion of the 7:00 p.m. meeting relative to the study session. He presented three handouts. (1) Communication addressed to Ricky Ramos, Associate Planner from the California Coastal Commission titled *"Coastal Commission Staff Review of City's Response to Comments to Proposed Seawater Desalination Project Draft Environmental Impact Report"*; (2) E-Mail of 11/1/2003 titled *"Poseidon Study Session at 4 PM not 5 PM"*; and (3) E-Mail of 11/1/2003 titled *"Clarification of HB Planning Commission Poseidon CUP Vote"*.

Planning Director Howard Zelefsky reported and introduced Principal Planner Mary Beth Broeron, who presented a brief staff report.

A presentation was made by Billy Owens Vice President, Project Development, Poseidon Resources Corp.

Andy Kingman, Chief Executive of Poseidon, presented a profile of Poseidon. Mr. Kingman introduced the following speakers who presented PowerPoint slide shows.

Scott Jenkins PHD, Senior Engineer, Scripps Institution of Oceanography gave a PowerPoint presentation titled *"Coastal Processed Issues Related to the EIR for the Poseidon Seawater Desalination Project at Huntington Beach."*

Elaine Archibald Consultant, Archibald & Wallberg Consultants, gave a PowerPoint presentation titled *"Poseidon Seawater Desalination Plant at Huntington Beach Impacts on Bacteria Levels."*

Jeffrey Graham PHD, Scripps Institution of Oceanography presented a PowerPoint slide show titled *"Potential Biological Effects of Desalination Discharge."*

Subsequent to the meeting, the City Clerk's Office received copies of the PowerPoint reports referenced above per the City Clerk's request at the meeting to have a copy made available in the City Clerk's Office.

Discussion was held amongst Council, staff and representatives of Poseidon. Mayor Pro Tem Cathy Green asked various questions regarding; (1) effects on the Huntington Beach water system; (2) benefits of economic development; (3) options for water; (4) the tax implication; (5) the AES contract; and (6) the process of how AES controls water entrainment.

It was determined that the developer and staff will report back to Council.

Council received clarification from the Poseidon representatives regarding the Tampa Desalination Plant and the new EPA (Environmental Protection Agency) regulations as it relates to the EIR (Environmental Impact Report).

Motion to Recess to Closed Session – Approved

A motion was made by Cook, second Green to recess to Closed Session on the following items. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy

NOES: None

ABSENT: None

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the agency is a party. The title of the litigation is **G. Brett Morehead v. City of Huntington Beach**; WCAB Case No. ANA 0343051; Claim No. COHB-01-0136. **Subject: Morehead v. City of Huntington Beach.** (120.80)

(Redevelopment Agency) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the agency is a party. The title of the litigation is **Mulligan v. Redevelopment Agency**; Orange County Superior Court Case No. 740099; Court of Appeal No. G028980. **Subject: Mulligan v. Redevelopment Agency** (400.50)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is **City of Huntington Beach v. Huntington Beach Police Officers' Association**; United States District Court, Case No. SA 01-1125 GLT. **Subject: City of Huntington Beach v. HBPOA (Gun Range)** (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is **Huntington Beach City Council v. Scott Baugh, and Connie Brockway, City Clerk**, Orange County Superior Court Case No. 02CC14276. **Subject: Huntington Beach City Council v. Scott Baugh, and Connie Brockway, City Clerk.** (120.80)

(City Council) Closed Session - Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is **Peter Leiby, et al. v. City of Huntington Beach, et al.**; Orange County Superior Court Case No. 693484. **Subject: Peter Leiby, et al. v. City of Huntington Beach, et al.** (120.80)

(City Council) Closed Session - Pursuant to Government Code Section 54956.9(b)(3)(B). (Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.) Southern California Water Company has notified the City it intends to purchase or condemn an easement in order to provide water service to Bolsa Chica Mesa. **Subject: Potential Eminent Domain Action by Southern California Water Company against City of Huntington Beach.** (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the City is a party. The title of the litigation is **Charles Nowotny v. Johnson, City of Huntington Beach, et al.**; U.S. District Court Case No. CV 99-13098-FMC. **Subject: Charles Nowotny v. Johnson, City of Huntington Beach, et al.** (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54957.6 to meet with its designated representatives: Agency Negotiators: Ray Silver, City Administrator; William Workman, Assistant City Administrator; Clay Martin, Director of Administrative Services; Jim Engle, Director of Community Services; Kenneth Small, Chief of Police; Duane Olson, Fire Chief; and Steven M. Berliner, Esq. and Bruce Barsook, Esq. of Liebert Cassidy Whitmore regarding **labor relations matters – meet and confer** with the following employee organizations: **MEO, MEA, PMA, FMA, HBPOA, HBFA, MSOA, SCLEA and Non-Associated.** (120.80)

Reconvened City Council/Redevelopment Agency Meeting – 7:00 P.M. – Council Chambers.

(City Council) City Attorney's Report of Action Taken by the City Council in Closed Session on Monday, November 3, 2003 Pursuant to Government Code §54957.1 Re: Huntington Beach City Council v. Scott Baugh and Connie Brockway, City Clerk, Orange County Superior Court Case No. 02CC14276 - Settlement Agreement Resolving the FAIR Litigation (120.80)

City Attorney Jennifer McGrath announced that on Monday, November 3, 2003 the City Council convened in closed session to discuss the matter of **Huntington Beach City Council v. Scott Baugh and Connie Brockway, City Clerk, Orange County Superior Court Case No. 02CC14276.** City Attorney Jennifer McGrath delivered to the City Clerk on November 3, 2003 the related communication titled *Report of Action Taken Pursuant to Government Code Section 54957.1 November 3, 2003, City Council Closed Session* which reflected her oral statement.

The communication dated November 3, 2003 reads as follows: On Monday, November 3, 2003, the City Council convened in closed session to discuss the matter of **City of Huntington Beach v. Scott Baugh and Connie Brockway, City Clerk, Orange County Superior Court Case No. 02CC14276.**

The Council voted to authorize the Mayor to sign and the City Clerk to attest to the Settlement Agreement resolving the Fair (Initiative) Litigation.

The Council voted as follows: 7 Ayes; 0 No.

Ayes: Sullivan, Boardman, Coerper, Cook, Green, Hardy, Houchen

City Council- Redevelopment Agency Roll Call

Present: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy

Absent: None

Pledge of Allegiance - Led by Mayor Connie Boardman.

Moment of Silence Observed

Mayor Boardman requested observation of a "moment of silence" to reflect upon issues before the Council this evening.

The City Clerk Announced Late Communications

Pursuant to the Brown (Open Meetings) Act, City Clerk Connie Brockway announced Late Communications regarding agenda items that had been received by her office following distribution of the agenda packet:

Communication from Bob Polkow dated November 1, 2003 titled *Agenda Item No. 8 (Closed Session 3 Nov. 2003)* presenting recommendations.

Communication dated May 8, 2003 to Ricky Ramos, Associate Planner, from the California Coastal Commission titled *Coastal Commission staff review of City's Response to Comments for proposed Poseidon Seawater Desalination Project Draft Environmental Impact Report*.

Two communications submitted by Larry Porter during the study session public comments portion of the meeting dated November 3, 2003 titled *OOG: Poseidon Study Session at 4 PM, not 5 PM Monday, Nov 3.*, and *OOG: Clarification of HB Planning Commission Poseidon CUP Vote*.

Revised page number 14 of agenda correcting that Agenda Item regarding barricades for the downtown Halloween celebration is submitted by Councilmember Houchen rather than Councilmember Hardy.

Communication from Norm Westwell dated October 31, 2003 titled *Late Communication Agenda Item H-3a* regarding the proposed seven councilmember districting plan.

The Following Additional Late Communications Were Submitted During the Meeting:

Two communications submitted by Judge Polos during public comments titled *Invitation to Participate in the Orange County Grand Jury* and *You Can Make a Difference*.

Communication submitted by Assemblyman Tom Harman during public comments titled *Stormwater Pollution: Causes, Impacts and Solutions*.

Presentation made by Mayor Connie Boardman and the Environmental Board Chair made presentations to eight individuals who have worked to improve the Huntington Beach environment. The individuals to be recognized are: Gina Bartrom, Nancy Donaven, Juana Mueller, Louann Murray, Stephanie Pacheco, Shirley Knopf, Jan Vandersloot, and Flossie Horgan. (160.40)

(City Council) Report Presented by Assemblyman Tom Harman on the "State of the State"

Assemblyman Tom Harman presented a report on state legislation that had been adopted particularly those laws which will affect Huntington Beach. He stated six of his bills had been approved and he contributed to two other adopted bills. He stated the Governor-elect will be sworn into office on November 17, 2003, and call a special session of the legislature on November 18, 2003. Assemblyman Harman referred to a brochure from the PCL Foundation titled *Stormwater Pollution: Causes, Impacts and Solutions*, which he submitted as a Late Communication.

Public Comments

Judge Peter Polos gave qualifications necessary for citizens to serve on the Orange County Grand Jury. He urged citizens to become involved in local government. He distributed two late communications titled *Invitation to Participate in the Orange County Grand Jury* and *You Can Make a Difference*.

Bob Winchell spoke in opposition and voiced his concerns regarding the Fair Initiative Districting measure on the March 2, 2004 Special Municipal Election ballot.

Tim Geddes spoke in opposition to the alternative Districting Measure proposed on this agenda as in his opinion it is only slightly less worse than the measure already scheduled. He suggested another alternative.

Mark Bixby stated reasons relative to alleged conflict of interest regarding Councilmember Houchen.

Julie Bixby, Bolsa Chica Land Trust representative, announced that November 11 through the 16th is being designated as National Geography Awareness Week and there is an event planned at Bolsa Chica Wetlands by the Bolsa Chica Land Trust.

Nancy Donaven spoke in opposition to the proposed alternative Districting Measure. Ms. Donaven stated that in her opinion districting would be detrimental as it reduces the citizens' ability to vote for all councilmembers instead of only one.

Debbie Borden presented an invocation due to lack of an official invocation at Council meetings.

Mary Jo Baretich spoke in opposition to the proposed Poseidon Desalination Plant and requested that Council deny this project.

Ed Kerins, Huntington Beach Tomorrow President, stated that in his opinion that districting is detrimental to the citizens of Huntington Beach. Mr. Kerins spoke in opposition to the proposed Five Council Districts Measure scheduled on the March 2, 2004 Special Municipal Election and to the proposed alternative seven councilmember districts measure proposed on this evening's agenda. He stated that both measures permit one vote for one councilmember representing the district in which

an individual resides as a replacement for the current city at-large vote. Mr. Kerins suggested that citizen groups need to inform the public regarding the merits of at-large Councilmembers.

Joey Racano informed Council of various reasons why he opposes the proposed Poseidon Desalination Plant and the proposed districting measure. He informed Council of the meeting held by the Army Corps of Engineers regarding dredging of the Santa Ana River. He spoke on other environmental subjects.

Dean Albright spoke in opposition to the proposed districting measures and stated that the community needs to be educated about the pitfalls of districting.

Tom Livengood stated that in his opinion districting would reduce citizens' participation. Mr. Livengood stated that if Council moves forward on the proposed seven districts measure that they add to the measure that the seven districts would be elected at-large.

Steve Ray extended his congratulations to the Environmental Board recipients. Mr. Ray informed Council of various reasons why he opposes the proposed districting measures.

John McGregor spoke in opposition to the proposed Poseidon Desalination Plant and his belief that the water produced would be used for future developments.

(City Administrator's Report) Continued from the October 20, 2003 Council Meeting - Presentation Made Regarding Police Chief's Recommendations Concerning Proposed Increase of Parking Fines – Directed Staff to Return to Competitive Services Committee Regarding Visible Signage – City Administrator to Inform Council by Memo (340.20)

The City Council considered a communication from Police Chief Kenneth Small regarding the recommendations relative to current parking fines and the necessity to modify fines to provide a more effective deterrent.

Police Chief Small presented an oral report. He confirmed that the proposed parking fine increases are competitive with neighboring beach cities.

Councilmember Dave Sullivan suggested delaying the raising of street sweeping fines due to the need to have more visible signage. He recommended issues of signage be sent back to the Competitive Services Committee.

City Administrator Ray Silver stated that staff would develop an approach and inform Council by memo.

(City Administrator's Report) Authorized the City Administrator to Retain Assistance to Process Refunds and Issue Bond Relative to the Property Tax Override (120.25)

The City Council considered a communication from City Administrator Ray Silver transmitting the following **Statement of Issue**: At the September 15, 2003 meeting, the City Council directed the City Administrator to present a progress report for the property tax override refund process. This memorandum provides an update of city's progress, detail on some of the major issues staff has encountered, and an estimated timeline for the major milestones in the refund process.

City Administrator Ray Silver gave an overview of the property tax override refund process.

City Clerk Connie Brockway responded to Council's inquiry relative to the City Clerk's Office claims processing.

A motion was made by Green, second Boardman to:

1. Authorize the City Administrator to retain assistance to process the property tax override refund claims and payments;

and

2. Authorize the City Administrator to retain assistance to issue the property tax override refund judgment bond.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen
NOES: None
ABSENT: None

(City Council) Report Made by Fire Chief Duane Olson Regarding Huntington Beach Fire Department's Assistance in Wildfire Disasters

Fire Chief Duane Olson reported on the response of the (HBFD) Huntington Beach Fire Department personnel who assisted in combating the wildfire disasters. The HBFD sent four fire engines, two Battalion Chiefs, and a Division Chief to render aid to communities ravaged by the wildland fires. Fire Chief Olson stated that letters and emails are being received from residents who had direct contact with our firefighters and he is proud of their efforts.

(City Council) Reviewed and Accepted Shari Freidenrich, City Treasurer's September 2003 Report Titled *City of Huntington Beach Summary of City Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity* (310.20)

The City Council considered a communication from City Treasurer Shari Freidenrich transmitting the Monthly Investment Report for September 2003.

City Treasurer Freidenrich presented a PowerPoint slide report dated November 3, 2003 titled *Treasurer's Report* which was included in the agenda packet.

A motion was made by Green, second Cook to review and accept the monthly report. Following review of the report, by motion of Council, accept the Monthly Investment Report *Summary of Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity for September 2003*, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy
NOES: None
ABSENT: None

(City Council) Administrative Public Hearing Held - Adopted Resolution No. 2003-80 Approving Certification of Special Assessments for Delinquent Civil Fines for Municipal Code Violations (570.60)

Mayor Boardman announced that this was the time noticed for an administrative public hearing to consider a request for Council certification of recording Notices of Special Assessments against private property for the value of unpaid civil fines, plus interest and penalties, pursuant to Ordinance No. 3397 adopted by City Council on June 15, 1998.

An Administrative Public Hearing as required by the California Government Code Section 38377.5 for the purpose of certifying special assessments against properties where public nuisances have occurred.

City Attorney Jennifer McGrath reported and recommended that Council adopt Resolution No. 2003-80.

Legal notice as provided to the City Clerk's Office by staff had been mailed, published and posted.

Mayor Boardman declared the administrative public hearing open.

There being no persons present to speak on the matter and there being no protests filed, either written or oral, the Mayor declared the public hearing closed.

A motion was made by Coerper, second Green to adopt **Resolution No. 2003-80** entitled "*A Resolution of the City Council of the City of Huntington Beach Certifying Special Assessments for Collecting Delinquent Civil Fines for Municipal Code Violations.*" The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen
 NOES: None
 ABSENT: None

Consent Calendar – Items Approved

On motion by Green, second Coerper Council approved the following Consent Calendar items, as recommended. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen (Sullivan and Cook - NO on Mulligan Settlement; Houchen, Cook, and Green ABSTAINED on the August 11, 2003 minutes)
 NOES: None
 ABSENT: None

(City Council/Redevelopment Agency) Minutes (120.65) - Approved and adopted the minutes of the City Council/Redevelopment Agency Meetings of August 11, 2003 as written and on file in the Office of the City Clerk. Submitted by the City Clerk.

(City Council) Received and Filed Big Independent Cities Excess Pool (BICEP) Financial Statements and Independent Auditor's Report – June 2000, 2001 and 2002 (310.75) – Received and filed the *Big Independent Cities Excess Pool (BICEP) Financial Statements and Supplementary Information With Independent Auditor's Report for the years ending June 30, 2000, June 30, 2001 and June 30, 2002.* Submitted by the City Clerk. Funding Source: Not Applicable.

(City Council) Approved Animal Care Services Contract between the City and the County of Orange – Fiscal Year 2003-04 (600.25) – Approved the *Agreement for Provision of Animal Care Services Between County of Orange and City of Huntington Beach Fiscal Year 2003-2004* and authorized the Mayor and City Clerk to execute same. Submitted by the City Administrator. Funding Source: 2003-04 budget \$409,356 in General Fund, Non-Departmental account.

(City Council) Appropriated Funds for the Replacement of the Engine for Groundwater Well No. 7 (320.45) – Appropriated \$350,000 from the Undesignated Water Fund Balance for the replacement of the engine for Well No. 7. Submitted by the Public Works Director. Funding Source: \$350,000 from the Undesignated Water Fund Balance to Water Production, General Equipment Account. Fiscal Impact Statement (FIS) 2004-04. (The engine is scheduled for replacement for Fiscal Year 2004-2005. Due to major mechanical difficulties the cost to repair is prohibitive. The Well is essential for meeting the allowable basin pumping percentage for the City.)

(City Council) (1) Approved the Children's Needs Task Force Appointments of Diane Lenning and Reappointments of Shirley Carey, Jacqueline Cherewick, Tanya Hoxsie and Carol Kanode – Terms to Expire August 31, 2006; and Approved the Student Appointments of Travis Holler, Sean McBride, Veronica Gomez, and Stephanie Turner – Terms to Expire April 30, 2004 and (2) Approved Amendment to the Children's Needs Task Force By-Laws (110.20) – **1)** Approved the re-appointments of **Shirley Carey, Jacqueline Cherewick, Tanya Hoxsie and Carol Kanode** for terms to expire August 31, 2006; and **2)** Approved the appointment of **Diane Lenning** to the Children's Needs Task Force for a term to expire August 31, 2006; and **3)** Approved the student appointments of **Travis Holler, Sean McBride, Veronica Gomez, and Stephanie Turner** for terms to expire April 30, 2004; and **4)** Approved the Children's Needs Task Force by-laws as amended by vote of the executive board. Submitted by the Community Services Director as recommended by Mayor Pro Tem Cathy Green and Councilmember Gil Coerper, Liaisons to the Children's Needs Task Force. Funding Source: Not applicable.

(City Council) Approved the Release of Securities for Tract No. 16192 Located s/w Corner Palm Avenue and Mystic Lane (s/w Corner of Palm Avenue) - Accepted the Public Improvements (Lennar Homes of California, Inc.) (420.60) - **1.** Accepted the improvements constructed and dedicated for public use with Tract No. 16192; and **2.** Accepted the Guarantee and Warranty Bond No. 104125090; the security furnished for guarantee and warranty of improvements, and instructed the City Clerk to file the bond with the City Treasurer; and **3.** Released Faithful Performance/Labor and Material Bond No. 11133599149 and Monument Bond No. 11133599156 pursuant to California Government Code Section No. 66499.7(b); and **4.** Instructed the City Clerk to notify the developer, Lennar Homes of California, Inc., of this action and the City Treasurer to notify the **The American Insurance** Company, of this action; and **5.** Instructed the City Clerk to record the *"Notice of Acceptance of Public Improvements"* (attached) with the Orange County Recorder. Submitted by the Public Works Director. Funding Source: Not Applicable.

(Redevelopment Agency) Appropriated Funds of \$1,500,000 for Settlement to Mulligan v. Redevelopment Agency Litigation (600.30) – Appropriated \$1,500,000 (one million five hundred thousand) from the Redevelopment Agency Fund Balance. Submitted by the Deputy Executive Director and Agency General Counsel. Funding Source: Redevelopment Agency Fund Balance. (The title of the litigation is **Mulligan v. Redevelopment Agency**; Orange County Superior Court Case No. 740099; Court of Appeal No. G028980. Fiscal Impact Statement (FIS) 2004-06)

(City Council) Adopted Resolution No. 2003-81 in Support of the League of California Cities Initiative Ballot Measure to Require Voter Approval Before the State Government May Take Local Tax Funds (Protection of Local Revenue) (120.70)

The City Council considered a communication from Councilmember Jill Hardy, Chair, Intergovernmental Relations Committee, on behalf of members, Mayor Connie Boardman and Councilmember Debbie Cook transmitting the following **Statement of Issue**: Should the City Council of the City of Huntington Beach support the League of California Cities proposed ballot measure requiring voter approval before the State can take local tax funds?

Assistant City Administrator William Workman reported.

A motion was made by Sullivan, second Green to adopt **Resolution 2003-81** - *"A Resolution of the City Council of the City of Huntington Beach Supporting a Statewide Ballot Initiative to Require Voter Approval Before State Government May Take Local Tax Funds"* in support of the League of California Cities Ballot Initiative. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen
NOES: None
ABSENT: None

(City Council) Adopted Ordinance No. 3620 Amending Chapter 14.25 - Adopted Ordinance No. 3621 Amending Chapter 17.05 of the Huntington Beach Municipal Code Updating Water Quality Language Relating to the National Pollutant Discharge Elimination System (NPDES) Storm Water Requirements and Urban Runoff Management (640.10)

After City Clerk read by title, a motion was made by Green, second Coerper to adopt **Ordinance No. 3620** - *"An Ordinance of the City of Huntington Beach Amending Chapter 14.25 of the Huntington Beach Municipal Code Relating to Storm Water and Urban Runoff Management."* (Approved for Introduction October 20, 2003.)

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen
NOES: None
ABSENT: None

After City Clerk read by title, a motion was made by Green, second Coerper to adopt **Ordinance No. 3621** - *"An Ordinance of the City of Huntington Beach Amending Chapter 17.05 of the Huntington Beach Municipal Code, Referred to as the Grading and Excavation Code."* (Approved for Introduction October 20, 2003.)

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen
NOES: None
ABSENT: None

(City Council) Directed the City Administrator to Make Improvements As Amended to the City's Contracting Processes (Including Professional Services Contracts under Huntington Beach Municipal Code Section 3.03) (120.10)

The City Council considered a communication from Councilmember Jill Hardy transmitting the following **Statement of Issue**: At the October 20, 2003 City Council meeting, staff recommended improvements to the city's contracting processes. I believe the following recommendations represent effective solutions to recent concerns identified with the contracting process. In addition to the recommended improvements (listed below), I propose that staff provide the City Council an update on the contracting process as part of the FY 2004-05 budget process.

A motion was made by Hardy, second (inaudible) **as amended to provide that the City Attorney, not Departments** will maintain a log of the contracts they enter into which will be transmitted quarterly to the City Clerk's office to ensure proper filing and to direct the City Administrator to make the following improvements to the city's contracting processes within 90 days and provide a report to the City Council regarding the contracting processes as part of the FY 2004-05 budget process:

- a. City Attorney's office will, upon approving a Professional Services Contract (PSA), transmit the original agreement to the City Clerk's office; **and**
- b. Develop an annual training program for processing all types of contracts; **and**
- c. Develop Administrative Regulations to establish the method for processing maintenance/service and public works contracts; **and**
- d. Contracts will not be dated until they are effective (signed by City Attorney's office); **and**
- e. Remove the Mayor and City Clerk signature lines from contracts when not required; **and**
- f. Modify Purchasing Manager Certification to apply to maintenance/service and public works contracts; **and**
- g. Assign a single department contract coordinator to ensure contract proper processing; **and**
- h. ~~Departments~~ **City Attorney** will maintain a log of the contracts they enter into which will be transmitted quarterly to the City Clerk's office to ensure proper filing; **and**
- i. Staff's professional service agreement signature authority will be capped at \$100,000, agreements over \$100,000 will require City Council approval.

City Attorney Jennifer McGrath clarified for Councilmember Dave Sullivan that her office verifies all documents are accurate, appropriately signed and approved as to form.

City Clerk Connie Brockway responded to Councilmember Dave Sullivan's inquiry relative to why she believed City Clerk attestation on city contracts to be necessary stating that a majority of cities require the City Clerk to always attest to the signatures of city officers entering into contracts on behalf of the city; that attestation by the City Clerk applies to contracts approved and entered into that do not appear on city council agendas and to those contracts which do appear on the city council agenda.

The City Clerk informed Council of an email survey her office had conducted of over forty cities wherein all but eight cities required the City Clerk to attest to all agreements even those agreements not appearing on the council agenda. She referred to cities such as the City of Irvine, Santa Ana and Anaheim which require City Clerk attestation to the signatures of the city officers just as the City Clerk must attest to the signature of the Mayor on contracts that go through the city council process. She informed Council of the reasons why she believed her request to attest to in house contracts was reasonable.

A substitute motion was made by Sullivan, second Coerper to require attestation and limit contracts to \$50,000.

City Attorney McGrath stated her opinion that the city seal or attestation line on city contracts is not required.

City Attorney McGrath reported on the Huntington Beach Municipal Code Section 3.03 process.

City Administrator Ray Silver reported on the Professional Services Contract process stating in order to save staff time his office, the City Attorney and Risk Management developed a standard professional services contract. City Administrator Silver informed Council that staff wants to improve the system and address the legitimate concerns raised by the City Clerk.

Council voted on the above-mentioned substitute motion made by Councilmember Sullivan. The motion **failed** by the following roll call vote:

AYES: Sullivan, Coerper, Green,
NOES: Boardman, Cook, Houchen, Hardy
ABSENT: None

Council voted on the above-mentioned original motion. The original motion **as amended** by Councilmember Hardy **that the City Attorney, not Departments** will maintain a log of the contracts they enter into which will be transmitted quarterly to the City Clerk's office to ensure proper filing carried by the following roll call vote:

AYES: Coerper, Hardy, Green, Boardman, Cook, Houchen
NOES: Sullivan
ABSENT: None

(City Council) Approved Waiver of the Fees for the Installation of Barricades for the Downtown Halloween Celebration (Resolution No. 2003-9 Adopted on February 3, 2003 Approved the Closure of Main Street) (900.20)

The City Council considered a communication from Councilmember Pam Houchen transmitting the following **Statement of Issue**: For the past seven years, the Downtown Merchants Association has conducted Halloween activities on Main Street. These activities have included game booths, petting zoo, free candy, and other attractions for local youth as an alternative to door-to-door trick or treating. The merchants' event not only provides a safe environment for the children, but also promotes business in the downtown.

The city partners with the Downtown Merchants Association by closing Main Street to vehicular traffic, which requires Public Works assistance. This year there is an added cost of \$660 for portable barricades. These blockades are a safety requirement from the Police Department to prevent a tragedy similar to what happened in Santa Monica when an out of control motorist ran down pedestrians at a Farmers Market in the Promenade area. The barricades will be used for future events.

Councilmember Houchen reported and informed Council that the \$660.00 is for the rental of the barricades not the purchase as explained in the Late Communication submitted by the Community Services Director, which was announced earlier by the City Clerk.

A motion was made by Houchen, second Sullivan **as amended by Late Communication** to:

Fees to reimburse city staff for this event total \$900, of which \$660 is for ~~purchasing~~ **rental** and setting up the new barricades. I am requesting the city waive these fees because the Halloween celebration provides economic benefits to the downtown area, provides a safe Halloween activity for local children, and meets the city's goal of becoming a destination attraction.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Houchen

NOES: Boardman, Cook

ABSENT: None

(City Council) Directed the City Attorney to Prepare Appropriate Documentation for the November 17, 2003 Council Meeting for Consideration of a Proposed Seven Councilmember Districting Plan for the March 2, 2004 Special Municipal Election Ballot (620.20)

The City Council considered a communication from Councilmember Dave Sullivan transmitting the following **Statement of Issue**: Sufficient signatures were collected to place a districting initiative on the March 2, 2004, ballot. Many feel that a five-member City Council would not be able to efficiently conduct city business, especially in the area of filling City Council subcommittees. The voters should have an opportunity to consider a seven-district plan.

Councilmember Sullivan informed Council of his concern of the detrimental effect on city government which he believed would occur should the districting measure be approved. He stated that in his opinion the proposed five member council would not be adequate for a city the size of Huntington Beach. Councilmember Sullivan requested that Council offer an alternative to the five district measure for voter consideration.

A motion was made by Sullivan, second Coerper to direct the City Attorney to prepare all the appropriate documentation for the November 17, 2003, City Council Meeting for City Council consideration and possible placement of the "Seven Council Member Districting Plan" on the March 2, 2004 ballot.

Considerable discussion was held among Council regarding matters including: that the city is not large enough for districting; by placing a seven district option on the ballot it may appear that council supports districting; impact on the school district; each councilmember should be accountable to the whole city not just their district; the possibility of an alternative proposal of seven district elected at large and the need for voters to take part and understand the issue.

Mayor Boardman made a motion to place a charter amendment measure at the March 2, 2004 Special Municipal Election for seven councilmanic districts elected at large. There was no second.

A vote was taken on the original motion made by Sullivan second Coerper to direct the City Attorney to prepare all the appropriate documentation for the November 17, 2003, City Council Meeting for City Council consideration and possible placement of the "Seven Council Member Districting Plan" on the March 2, 2004 ballot. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Houchen

NOES: Boardman, Cook, Hardy

ABSENT: None

(City Council) Appreciation Extended to Huntington Beach Fire Department

Mayor Pro Tem Green thanked the Huntington Beach Fire Department for their great work.

Mayor Boardman expressed appreciation for our Huntington Beach Fire Department's efforts in fighting the wildfires.

Adjournment – City Council/Redevelopment Agency

Mayor Boardman adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to Monday, November 17, 2003, at 5:00 p.m., in Room B-8, Civic Center, 2000 Main Street, Huntington Beach, California.

City Clerk and ex-officio Clerk of the City
Council of the City of Huntington Beach
and Clerk of the Redevelopment Agency
of the City of Huntington Beach, California

ATTEST:

City Clerk-Clerk

Mayor-Chairman